

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.9826 of 2003

Sou. Sangita Arun Deshmukh

Petitioner

Vs.

Shri Arun Keshav Deshmukh

Respondent

Mr.M.A.Patil for petitioner.

CORAM: B.H.MARLAPALLE,J.

July 11, 2006.

P.C.

. Heard Mr.Patil, the learned counsel for the
petitioner-wife.

. The learned Civil Judge, Senior Division at
Pandharpur allowed the petition for divorce filed
under Section 13 of the Hindu Marriage Act, 1955 by
his judgment and order dated 27/1/1999 and on the
ground of desertion on the part of wife. Against
this decree passed in HMP No.93 of 1997 the
petitioner approached the lower Appellate Court
belatedly and filed Misc. Application No.122 of 2001

for condonation of delay. The said application came to be dismissed on 14/8/2002.

. Thus it is evident that the decree of divorce was passed by the competent Court more than seven years back and the lower appellate Court shut its doors from entertaining the appeal about four years back. The notices in this petition could not be served on the respondent-husband for the reasons that he is not staying at the given address. It is implied that he is remarried and has settled somewhere else in the new phase of his life during the last seven years.

. There is no reason to entertain this petition now and Mr.Patil, the learned counsel for the petitioner submitted that the wife has a right to apply for maintenance and the finding recorded by the lower Appellate Court in rejecting the application for delay condonation may come in her way. It is hereby clarified that if she is entitled to file an application for maintenance / alimony, the said application will be considered only on the basis of the decree passed by the learned Civil Judge, Senior Division at Pandharpur on 27/1/1999 and without being

influenced by the observations made by the lower appellate Court in the impugned order. The petition is disposed off accordingly.

(B.H.MARLAPALLE,J.)